

1 Q Prior to this deposition today did
 2 you see this string of e-mails?
 3 A I can't testify that I did because I
 4 don't remember it, but it appears that since I
 5 was copied on it and I typically read all my
 6 e-mail, I'm sure that I did read it.
 7 Q I'm saying --
 8 A And I did respond, as I can see here.
 9 Q Right. I'm saying before you sat
 10 down here today or when you came in today for
 11 your deposition, did anybody show you this
 12 document?
 13 A I did see it just before I came over
 14 here.
 15 Q Okay. And did the document have an
 16 exhibit-type sticker indication?
 17 A I can't recall.
 18 Q But it was just prior to coming here?
 19 A Yes.
 20 Q Other than your counsel, was it
 21 provided to you by someone in York County?
 22 A No.
 23 MR. HUTCHINSON: Objection.
 24 BY MR. JACOB:
 25 Q In regard to your e-mail, you say you

1 my personal gut feel. And again, I have no
 2 knowledge about her actual work performance
 3 because I'm not involved in the D.A.'s office,
 4 and I don't administer nor do I have any
 5 oversight responsibility. But again, the
 6 feedback that I had gotten indicated that she
 7 had done a good job.
 8 Q And what was the bad employment
 9 decision you're referring to?
 10 A What I think I'm referring to there
 11 is the fact that I was aware of the disagreement
 12 between the District Attorney and Miss Downing
 13 regarding Daryman. It would seem that it's
 14 unfortunate that we would be losing an employee
 15 over that kind of a disagreement or issue.
 16 Q But it doesn't say over an issue or
 17 disagreement. It says over an actual employment
 18 decision.
 19 A Well, I'm talking about the D.A.'s
 20 decision that he wanted special work hours and
 21 assignment for Mr. Daryman which was outside the
 22 normal detectives' work hours and
 23 responsibilities.
 24 Q So you agreed then that what the D.A.
 25 was doing or attempting to do in regard to Mr.

1 responded, correct me if I'm wrong, I believe
 2 you responded on October 13th, 2004. Your
 3 e-mail appears to have been sent to Sharon
 4 Luker, Steve Chronister, Douglas Kilgore and
 5 Lori Mitrick. I believe the e-mail states:
 6 My gut feeling on this is that it
 7 does not feel right. The D.A. certainly has his
 8 1620 rights to hire and fire, but something just
 9 doesn't seem right given the Daryman situation.
 10 Unfortunately, the county is losing an excellent
 11 chief detective over a bad employment decision.
 12 Chuck.
 13 What were you saying in that e-mail?
 14 A Well, I was responding to Sharon
 15 Luker's e-mail below. And what I had heard
 16 through my work as the administrator and coming
 17 in contact with various officials in the law
 18 enforcement community is that, Miss Downing had
 19 done a fine job as a chief detective and had a
 20 good reputation in the law enforcement
 21 community. That it's really unfortunate that it
 22 appears that we would be losing a good employee
 23 who did a good job over an issue regarding
 24 Daryman.
 25 Basically, it was just my commentary,

1 Daryman's schedule, that you perceived that as a
 2 bad employment decision?
 3 MR. HUTCHINSON: Objection.
 4 MR. JACOB: I think that's what he
 5 stated and I just want it clarified.
 6 MR. HUTCHINSON: You can answer.
 7 THE DEPONENT: What I'm trying to say
 8 is that, I don't have any real knowledge of all
 9 the facts. But, from what I did hear and the
 10 little that I had been involved, it just seemed
 11 like there was just -- this is a bad decision to
 12 lose a good employee.
 13 BY MR. JACOB:
 14 Q And, in fact, nothing had come to
 15 your attention that indicated that Miss Downing
 16 was a bad employee, correct?
 17 A No, I had no knowledge of that.
 18 Q Do you know if there was any inquiry
 19 made on behalf of the commissioners as to
 20 whether Miss Downing was insubordinate,
 21 disloyal; just a disciplinary problem in the
 22 D.A.'s office?
 23 A No, I'm not aware of that.
 24 Q Did you ever instruct Human Resources
 25 to look into the issue as to why Miss Downing

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1 was going to be terminated?
 2 A No.
 3 Q Did Miss Luker ever come to you --
 4 Let me put it this way. Miss Luker just
 5 testified she went to the commissioners and
 6 expressed that Miss Downing had made certain
 7 complaints and believed that she was being
 8 terminated for that. Did you become aware of
 9 that as well?
 10 MR. HUTCHINSON: Objection. You may
 11 answer.
 12 THE DEPONENT: No. No. I was not
 13 aware of any of that.
 14 BY MR. JACOB:
 15 Q In fact, were you aware of any of the
 16 complaints that Miss Downing was making just
 17 prior to her termination?
 18 MR. LEBER: Objection;
 19 characterization of when the termination
 20 occurred.
 21 MR. JACOB: Let me rephrase the
 22 question. Fair enough.
 23 BY MR. JACOB:
 24 Q Prior to December of 2004, did you
 25 become aware that Miss Downing -- And I'll just

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1 go through a few issues with you. Prior to
 2 December of 2004, did you become aware that Miss
 3 Downing had complained that, number 1, the
 4 proposed schedule for Detective Daryman may
 5 cause a labor issue for York County the or
 6 D.A.'s office?
 7 MR. HUTCHINSON: Objection.
 8 BY MR. JACOB:
 9 Q You can answer. You'll probably hear
 10 a lot of this. You can answer.
 11 A I had heard that.
 12 Q Who did you hear that from?
 13 A I couldn't -- I don't recall.
 14 Q Prior to December of 2004, did you
 15 hear that Miss Downing had spoken out about Mr.
 16 Rebert's attempts to promote Mr. Daryman into a
 17 nonunion management position?
 18 A Yes.
 19 Q And did you in the same time frame
 20 come to learn that her complaint was that she
 21 thought this would create a labor issue?
 22 MR. HUTCHINSON: Objection. Go
 23 ahead.
 24 THE DEPONENT: Yes.
 25 BY MR. JACOB:

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1 Q Prior to December of 2004, did you
 2 come to learn that Miss Downing had made
 3 complaints or allegedly made complaints that she
 4 felt that some of the District Attorney's
 5 conduct was possibly unlawful?
 6 MR. HUTCHINSON: Objection.
 7 THE DEPONENT: I don't recall hearing
 8 that until the Complaint was issued.
 9 BY MR. JACOB:
 10 Q Okay. Prior to December of 2004, did
 11 you come to learn that Miss Downing had made
 12 complaints that she believed that the district
 13 attorney was improperly receiving free passes to
 14 the York Fair?
 15 A No.
 16 Q And in the same time frame -- Let's
 17 just assume that all these questions are prior
 18 to December of 2004, and I'll note that's prior
 19 to her termination. Did you become aware --
 20 MR. LEBER: What was that last part?
 21 MR. JACOB: And I will say that I
 22 believe it to be prior to her termination. My
 23 questions are from the context of prior to her
 24 termination.
 25 MR. LEBER: Why don't you just leave

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1 it at before December 2004. That way I don't
 2 have to restate my characterization objection.
 3 I mean, that nails down a time frame that is
 4 calendar based and not in dispute, December of
 5 '04. You can make your arguments about the
 6 termination later.
 7 MR. JACOB: Is it your position that
 8 she was terminated at a different time?
 9 MR. HUTCHINSON: I don't think this
 10 is the time to go arguing about --
 11 MR. LEBER: All I'm saying is --
 12 MR. HUTCHINSON: -- what people's
 13 arguments are.
 14 MR. JACOB: I just want to make sure
 15 I'm not --
 16 MR. LEBER: -- it's a legal argument.
 17 There's no need for you to characterize it that
 18 way. You can give him a date. You're saying
 19 December of '04.
 20 MR. JACOB: See, let me explain. The
 21 reason I want to know that is because, I want to
 22 ask my questions in terms of prior to the time
 23 she was fired, terminated, or whatever. I don't
 24 want you to come back and say, well, it was
 25 actually November. Do you see what I'm saying?

1 Downing had complained about such matters?
 2 A No, not until the Complaint was
 3 issued.
 4 Q Okay. Did you ever investigate those
 5 particular issues?
 6 A No.
 7 Q Do you know if the commissioners ever
 8 ordered that those particular issues should be
 9 investigated?
 10 A Not to my knowledge.
 11 Q Do you have any understanding of this
 12 exchange of a couch for furniture or anything?
 13 A No. I know nothing --
 14 MR. HUTCHINSON: Objection.
 15 THE DEPONENT: -- at all about it.
 16 BY MR. JACOB:
 17 Q Do you know if there are any
 18 documents to support this exchange?
 19 MR. HUTCHINSON: Objection.
 20 THE DEPONENT: No.
 21 BY MR. JACOB:
 22 Q No, there aren't any documents, or no
 23 you don't know?
 24 A No, I don't know.
 25 Q Fair enough. I just want to be fair

1 be in contact with PMA?
 2 A Our risk manager, Keith Wentz.
 3 Q Are you aware of any documents in
 4 regard to the issue of whether or not Miss
 5 Downing's workers' compensation benefits should
 6 be terminated or whether the county should, or
 7 PMA should pay out on the open claim upon Miss
 8 Downing's termination?
 9 A I'm not aware of anything, really,
 10 any documents related to that.
 11 Q Do you know of anybody in York County
 12 other than Mr. Wentz who does have knowledge in
 13 that regard?
 14 A No.
 15 Q Have you had any discussion with the
 16 commissioners about this issue?
 17 A No.
 18 MR. HUTCHINSON: Objection.
 19 BY MR. JACOB:
 20 Q Did you have any discussions with
 21 Miss Luker about this issue?
 22 MR. HUTCHINSON: Objection.
 23 THE DEPONENT: No.
 24 BY MR. JACOB:
 25 Q Have you had any discussions with Mr.

1 to you.
 2 A No, I do not know.
 3 Q Okay. Do you know if there was ever
 4 a -- Strike that.
 5 Did Mr. Wentz -- Miss Luker testified
 6 that Mr. Wentz advised her that, basically when
 7 Miss Downing's employment was going to cease
 8 with the county, around the same time the
 9 workers' compensation benefits of hers would
 10 also cease. Were you aware of that issue?
 11 MR. HUTCHINSON: Objection.
 12 THE DEPONENT: No. I don't get
 13 involved in workers' comp issues. Anything
 14 related to the benefits that are paid or the
 15 issues regarding workers' compensation matters
 16 are directed via PMA, who is the insurance
 17 carrier.
 18 BY MR. JACOB:
 19 Q Do you know if anybody from the
 20 county ever instructed PMA not to start to pay
 21 out on an open claim after Miss Downing's
 22 employment was terminated?
 23 A No, I'm not aware of anybody doing
 24 that.
 25 Q Who from York County would normally

1 Rebert about this issue?
 2 A No.
 3 MR. JACOB: Let me take a minute
 4 here.
 5 (At or about 3:48 p.m., Mr. Jacob and
 6 Miss Downing leave the deposition room;
 7 reconvened at 3:57 p.m.)
 8 BY MR. JACOB:
 9 Q First of all, would it have been
 10 possible in your position to approve an extra
 11 week's vacation in exchange for health insurance
 12 benefits?
 13 A No, because I don't see the linkage
 14 at all. Typically, when we hire individuals, we
 15 negotiate with them in a management position
 16 their vacation requirement. It's either two
 17 weeks, three weeks, but I don't ever recall
 18 having any decision related to any health
 19 insurance benefits. I don't see the linkage at
 20 all. I don't know why that would have ever come
 21 up.
 22 Q I realize you don't recall that. But
 23 I'm saying, is it even possible for you to
 24 bargain one for the other?
 25 A I can't believe I would have done

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1 that. It just doesn't seem plausible. I don't
 2 see the linkage. I would have questioned why
 3 that would have happened.
 4 Q Fair enough. And just for further
 5 clarification, the discussions about the alleged
 6 12 days of vacation for the teaching, those were
 7 completely separate discussions from this issue
 8 of vacation for three weeks' vacation or
 9 insurance and that; am I correct?
 10 A That's my recollection, yeah. When
 11 we first started out in a discussion, I didn't
 12 recall what we would have agreed to in terms of
 13 vacation. That's something I just don't commit
 14 to memory.
 15 But the issue related to the teaching
 16 days was a separate issue. That's the one that
 17 I got involved with with Miss Downing and the
 18 D.A., trying to facilitate some type of a
 19 settlement or agreement on how we could work
 20 that out so she could continue to do the
 21 teaching, which we thought there was some
 22 benefit -- I thought there was some benefit to
 23 the county.
 24 Q Okay. Do you know why Miss Downing
 25 was terminated?

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1 A No. The only thing that I know is
 2 that, from what the D.A. has subsequently said
 3 in conversation with other people, and I've
 4 heard it through hearsay and what was in the
 5 newspaper, and that is, he had some disagreement
 6 with her regarding performance. That's all I
 7 know.
 8 Q So your knowledge then comes from
 9 what you read in the paper or from third
 10 parties; not directly from Mr. Rebert?
 11 A That's right, because I have not had
 12 any discussions directly in this matter of
 13 termination. He's got 1620 rights which gives
 14 him the hire and the fire authority. I
 15 typically do not get involved then in those
 16 personnel matters with row officers.
 17 Q Okay. Does Sharon Luker answer to
 18 you?
 19 A No. She reports directly to the
 20 board of commissioners.
 21 Q Okay. Would you be able to stop a
 22 firing, for lack of a better word, of an
 23 employee if you thought that the firing was
 24 going to be unlawful if it was someone who was
 25 an elected official such as the District

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1 Attorney?
 2 MR. HUTCHINSON: Objection.
 3 THE DEPONENT: The answer to that is
 4 no.
 5 BY MR. JACOB:
 6 Q There's no mechanism that you're
 7 aware of that, let's say York County could use
 8 to stop an elected official such as the District
 9 Attorney from wrongfully terminating an
 10 employee?
 11 MR. HUTCHINSON: Objection.
 12 THE DEPONENT: My understanding, no.
 13 We would end up having to defend the actions of
 14 the elected official.
 15 BY MR. JACOB:
 16 Q Even if they were found to later be
 17 improper?
 18 MR. HUTCHINSON: Objection.
 19 THE DEPONENT: I can't answer that at
 20 that point. We would turn that matter over to
 21 our counsel. But I don't think I -- I don't
 22 have any means to stop them from making a
 23 decision regarding hiring and firing.
 24 BY MR. JACOB:
 25 Q Do you know anybody in York County

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1 who would have the power or the authority to
 2 stop the District Attorney from firing somebody
 3 who was hired via his 1620 powers if they
 4 believed or if York County believed that the
 5 firing was going to be for an unlawful purpose?
 6 MR. HUTCHINSON: Objection.
 7 THE DEPONENT: I don't know how to
 8 answer that. I'm not aware -- I don't know. I
 9 don't know the answer to that.
 10 BY MR. JACOB:
 11 Q You don't know if you're aware of
 12 anybody with the authority?
 13 A Yeah. I don't know who would have
 14 the authority to stop it.
 15 Q Okay. I understand that.
 16 MR. JACOB: I have nothing else.
 17 EXAMINATION
 18 BY MR. LEBER:
 19 Q Just one point of clarification, Mr.
 20 Noll. Regarding the workers' comp benefits that
 21 are payable to injured employees, was it your
 22 testimony that no one within the county
 23 organization makes decisions relating to the
 24 payment, suspension or termination of workers'
 25 comp benefits; that that's deferred to the